

## **REMARKS/ARGUMENTS**

This Amendment responds to the Office Action dated July 17, 2009 in which the Examiner rejected claims 52-53, 55-58, 62-63, 67-68 and 70 under 35 U.S.C. § 101, and rejected claims 11-12, 14-17, 19-24, 35, 49-53, 55-58, 60-65, and 67-70 under 35 U.S.C. § 103.

As indicated above, claims 52, 67, 68 and 70 have been amended to be directed to statutory subject matter. Therefore, Applicants respectfully request the Examiner withdraws the rejection to claims 52-53, 55-58, 62-63, 67-68 and 70 under 35 U.S.C. § 101.

As indicated above, claims 11, 35, 49-52 and 67-70 have been amended in order to make explicit what is implicit in the claims. The amendment is unrelated to a statutory requirement for patentability.

In the claimed invention, for still picture data, a controlling means generates P or B picture data such that motion vectors are 0 for an entire frame and a chronologically preceding frame is copied as the encoded picture. The controlling means multiplexes encoded I picture data from an encoding means or the generated P or B picture data with the encoded audio signal. A time period of the encoded P or B picture data is the same as the time period of the encoded audio data.

By (a) having a controlling means which generates, for still picture data, P or B picture data such that motion vectors are 0 for the entire frame and a chronologically preceding frame is copied as the encoded picture, and (b) having the controlling means encode I picture signals from an encoding means or the generated P or B picture data and encoded audio signal as claimed in claims 11, 35, 49-52 and 67-70, the claimed invention provides an apparatus and method which can encode both still picture signals and moving picture signals with an audio signal. The prior art does not show, teach or suggest the invention as claimed in claims 11, 35, 49-52 and 67-70.

Claims 11-12, 14-17, 19-20, 23-24, 35, 49-53, 55-58, 60-61 64-65 and 67-70 were rejected under 35 U.S.C. § 103 as being unpatentable over *Hashimoto, et al.* (U.S. Patent No. 6,111,604) in view of *Kato* (U.S. Patent No. 6,148,031), *Riek, et al.* (U.S. Patent No. 5,987,179), ISO/IEC11172-1 and Official Notice.

*Hashimoto, et al.* appears to disclose in Figure 11 a process for capturing and storing video and audio information. After starting, a user presses a shutter release button 124 and a single picture along with associated audio is captured and stored in step 252. Step 254 then compresses the image and audio. Separate image and audio files are then written onto a memory card 16 in step 256. Subsequently, a relation file which describes the association of the image and audio files is written or updated in step 258 (column 9, lines 46-54). The video files are stored in a compressed format such as according to JPEG format. There are also two audio files 264A and 264B each containing headers and having been encoded using adaptive pulse coded modulation (column 9, lines 58-62).

Thus, *Hashimoto, et al.* merely discloses compressing an image and audio to form a JPEG format and two audio files. Nothing in *Hashimoto, et al.* shows, teaches or suggests (1) a picture encoding means encoding a picture signal as a I picture signal and (2) a controlling means, for still picture data, generating P or B picture data such that motion vectors a 0 for an entire frame and a chronologically preceding picture is copied as the encoded picture as claimed in claims 11, 35, 49-52 and 67-70. Rather, *Hashimoto, et al.* only discloses a single format and a relation file.

*Kato* appears to disclose when an operation keyboard 32 issues a continuous image taking command, an image compression/decompression circuit 18 compresses the output of the camera signal processor circuit 16 and the compressed information is stored in a first memory

20. When a still image taking request is input during the continuous image taking, the system control circuit 26 tags with a still image taking flag the corresponding frame of the compressed image information and stores them in a first memory. Upon the end of the continuous image taking, the system control circuit 26 reads the series of still images from the first memory 20, re-compresses them by the image compression/decompression circuit 18 while sequentially taking inter-frame correlation (Col. 3, lines 41-58).

Thus, *Kato* merely discloses when taking a continuous image compressing the information according to a motion JPEG standard and when a still image is taken, tagging the image and recompressing the image in an image compression/decompression circuit 18. Thus, nothing in *Kato* shows, teaches or suggests (a) an encoding means which encodes I picture data and (b) a controlling means, for still picture data, generates P or B picture data such that motion vectors are 0 for an entire frame in a chronologically preceding picture is copied as the encoding picture as claimed in claims 11, 35, 49-52 and 67-70. Rather, *Kato* only discloses recompressing an image when tagged as a still image.

*Riek, et al.* appears to disclose a method and apparatus for encoding a high-fidelity still image in an MPEG bit stream (column 3, lines 46-47). An encoder has a fixed bit rate and a fixed GOP structure (column 9, lines 28-29). Assuming frame 3 is the one that a user has chosen to encode as a high quality still image, because it is a B picture, nothing can be predicted from a B picture. The encoder 30 encodes the frame as a B picture 74 and can implement either the following two options: one option is to continue encoding the video sequence until it receives a next reference frame and to use the next reference frame as the first encoded picture (column 9, lines 33-46). For the second option, if the exact frame selected by the user is required rather than

continuing to encode the video sequence, the user selected image is repeatedly sent to the encoder 30 until it is encoded as either an I or P picture (column 9, lines 56-60).

Thus, *Riek, et al.* merely discloses an encoder which encodes a video sequence to either an I, P or B picture. Thus, nothing in *Riek, et al.* shows, teaches or suggests (1) an encoding means which encodes a I picture signal and (2) a controlling means generates, for still video data, P or B picture data such that motion vectors are 0 for each entire frame and a chronologically preceding picture is copied as the encoded picture as claimed in claims 11, 35, 49, 50-52 and 67-70. Rather, *Riek, et al.* teaches away from the claimed invention since the encoder generates both I, B and P pictures.

ISO/IEC11172-1 at section 1-a.6.3 merely discloses multiplexing video packs and audio by interleaving one audio pack in every six to seven video packs.

Thus, ISO/IEC merely discloses multiplexing video and audio. Nothing in ISO/IEC shows, teaches or suggests (1) an encoding means generating I picture data and (2) a controlling means, for still picture data, generating P or B picture data such that the motion vectors are 0 for an entire frame and a chronologically preceding picture is copied as the encoded picture as claimed in claims 11, 35, 49-52 and 67-70. Rather, ISO/IEC only discloses multiplexing video packs and audio.

The Examiner takes Official Notice that it is known in the art for audio and video packs to be correlated in a 1:1 ratio. Applicants respectfully request the Examiner provide a reference for the Official Notice. Further, Applicants respectfully point out that the Official Notice does not show, teach or suggest the primary features as claimed in claims 11, 35, 49, 52 and 67-70 as discussed above.

A combination of the references would merely suggest to capture audio information separate from the picture data and store the relationship in a relation file as taught by *Hashimoto, et al.*, to tag the still image and to recompress it later as taught by *Kato*, to have an encoder which generates I, P and B picture data as taught by *Riek, et al.* and to multiplex video and audio packs as taught by ISO/IEC. Thus, nothing in the combination of the references shows, teaches or suggests (1) generating I picture data in an encoding means and (2) for a still picture data having a controlling means generate P or B picture data such that motion vectors are 0 for an entire frame and a chronologically preceding picture is copied as the encoded picture as claimed in claims 1, 35, 49-52 and 67-70. Therefore, Applicants respectfully request the Examiner withdraws the rejection to claims 11, 35, 49-52 and 67-70 under 35 U.S.C. § 103.

Claims 12, 14-17, 19-20, 23-24, 53, 55-58, 60, 61, 64-65 recite additional features. Applicants respectfully submit that the claims would not have been obvious within the meaning of 35 U.S.C. § 103 over *Hashimoto, et al.*, *Kato*, *Riek, et al.*, ISO/IEC and Official Notice at least for the reasons as set forth above. Therefore, Applicants respectfully request the Examiner withdraws the rejection to claims 12, 14-17, 19, 20, 23-24, 53, 55-58, 60-61, and 64-65 under 35 U.S.C. § 103.

Claims 21-22 and 62-63 were rejected under 35 U.S.C. § 103 as being unpatentable over *Hashimoto, et al.*, *Kato*, *Riek, et al.* ISO/IEC and further in view of *Ejima, et al.* (U.S. Patent No. 6,327,423).

Applicants respectfully traverse the Examiner's rejection of the claims under 35 U.S.C. § 103. The claims have been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicants respectfully request the Examiner withdraws the rejection to the claims and allows the claims to issue.

As discussed above, since nothing in the combination of the primary references shows, teaches or suggests the primary features as claimed in claims 11 and 52, Applicants respectfully submit that the combination of the primary references with the secondary reference to *Ejima, et al.* will not overcome the deficiencies of the primary references. Therefore, Applicants respectfully request the Examiner withdraws the rejection to claims 21-22 and 62-63 under 35 U.S.C. § 103.

Thus, it now appears that the application is in condition for a reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested. Should the Examiner find that the application is not now in condition for allowance, Applicants respectfully request the Examiner enters this Amendment for purposes of appeal.

**CONCLUSION**

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed within the currently set shortened statutory period, Applicants respectfully petition for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

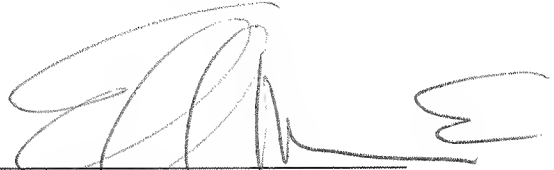
In the event that any additional fees are due with this paper, please charge to our Deposit Account No. 50-0320.

Respectfully submitted,

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